

**Not for Publication**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

TSMA FRANCHISE SYSTEMS, INC.,

*Plaintiff,*

v.

TS OF KINGS HIGHWAY INC. and SEAN  
NOLAN,

*Defendants.*

Civil Action No. 20-11088  
(JMV) (JBC)

**ORDER**

TS OF KINGS HIGHWAY INC. and SEAN  
NOLAN,

*Counterclaimants/Third-Party Plaintiffs,*

v.

TSMA FRANCHISE SYSTEMS, INC.,  
*Counterclaim Defendant*

and

DANIEL SCHULMANN, ANTHONY  
VISCOVICH, BRYAN GOTTHOFFER, MIKE  
SACHS, DINA COSTA, and RAY ROUSA,

*Third-Party Defendants.*

**John Michael Vazquez, U.S.D.J.**

For the reasons expressed in the accompanying Opinion, and for good cause shown,

**IT IS** on this 28<sup>th</sup> day of June, 2021,

**ORDERED** that Plaintiff TSMA Franchise and Third-Party Defendant Bryan Gotthoffer's motion to dismiss the Third-Party Complaint and Counterclaims, D.E. 15 is **GRANTED in part and DENIED in part**; and it is further

**ORDERED** that Third-Party Defendants' Anthony Viscovich, Mike Sachs, and Dina Costa's motion to dismiss the Third-Party Complaint and Counterclaims, D.E. 21, is **GRANTED in part and DENIED in part**; and it is further

**ORDERED** that Counts Three and Four are **DISMISSED without prejudice** insofar as they allege fraud and misrepresentations concerning the anticipated revenue and profits to be generated by the Bensonhurst location; and it is further

**ORDERED** that Counts Seven and Eight are **DISMISSED without prejudice**; and it is further

**ORDERED** that Counts Three, Four, Five, and Six are **DISMISSED without prejudice** as against Viscovich, Sachs, and Costa; and it is further

**ORDERED** that Defendants have thirty (30) days to file an amended pleading addressing the deficiencies noted in the accompanying Opinion; and it is further

**ORDERED** that if Defendants fail to file an amended pleading within the allotted time period, the matters dismissed without prejudice will be dismissed with prejudice; and it is further

**ORDERED** that within ten (10) days of the date of this Order, the parties shall contact the United States Magistrate Judge as to further scheduling.

  
John Michael Vazquez, U.S.D.J.